

1 allocation, which is approximately the same time you
2 applied for the Blackfoot facility as well, which
3 facility do you intend to become integrated into?

4 A Could you repeat the question?

5 Q Which of the facilities did you intend to
6 become integrated into?

7 A At the time that I applied?

8 Q Prior to your applications.

9 A I had not made a determination at that point
10 which of the facilities I would choose to move to. That
11 decision came later.

12 Q Approximately when did that decision come?

13 A Last summer when both facilities became
14 designated for hearing simultaneously for all practical
15 purposes. I realized at that point I was going to have
16 to make a decision where I was going to live and make my
17 home. At that time then I decided that Blackfoot, Idaho
18 would be where I would make my home due to a number of
19 factors including the fact that this is a class C
20 station with much broader coverage as opposed to the
21 class A in Central Valley. It was last summer that I
22 made my decision to move and live in Blackfoot.

23 Q So no integration was ever pledged in Central
24 Valley?

25 A No.

1 Q The Central Valley construction permit has now
2 been issued. Is that correct?

3 A That's been granted to me. I don't think I've
4 received the construction permit card yet but it has
5 been granted.

6 Q Have plans commenced for constructing that
7 station yet?

8 A I've begun making plans and contacted with
9 equipment suppliers and so forth and I'm looking for a
10 manager for the station.

11 Q During the time at which there is still a
12 certain amount of uncertainty concerning whether or not
13 you are going to prevail in the Blackfoot proceeding, do
14 you intend to operate as general manager of that station
15 yourself?

16 A At the Central Valley station?

17 Q Yes.

18 A I've not entertained that possibility.

19 Q So at the present time it's your intention to
20 hire a general manager even though you have the time to
21 undertake that task yourself?

22 A You're speculating something that I've not
23 given a great deal of thought to because you said in the
24 interim period.

25 Q Okay, let me maybe ask it differently. Right

1 now are you actively searching for a general manager?

2 A Yes.

3 Q And it's your intention right now at the
4 present time to in the near future employ a general
5 manager for Central Valley to assist in the construction
6 and initial operating phase of the station?

7 A Yes, it is my intention to hire a general
8 manager. The exact timing of when I hire the general
9 manager depends on when I find somebody that I think is
10 qualified and is available and can do the job.

11 Q What is your expectation as far as when the
12 Central Valley facility might be on the air?

13 A Certainly within the next 18 months and
14 hopefully within the next six or eight months. I would
15 hope that this Blackfoot application would be resolved
16 by that time.

17 Q You currently continue to be employed at your
18 father's corporation. Is that correct?

19 A Yes.

20 Q What is your corporate position with those
21 corporations?

22 A I'm vice president of the company and an
23 officer and a director.

24 Q When you say that company which company
25 specifically are you referring to?

1 A Bott Broadcasting Company. Is that the
2 company you were asking about?

3 Q Well, I was talking about your father's
4 companies in general. Bott Communications Inc. for
5 example.

6 A Excuse me?

7 Q For Bott Communications Inc. for example, what
8 is your corporate position?

9 A I'm vice president of Bott Communications.

10 Q And are you a director?

11 A Yes.

12 Q And how many directors are there with Bott
13 Communications Inc.?

14 A I believe there are three.

15 Q And you're one of three. Is that correct?

16 A Yes.

17 Q Bott Communications Inc. itself owns what
18 broadcast facilities again is that?

19 A Bott Communications Inc. owns KSIV radio in
20 Clayton, Missouri. It owns a construction permit for a
21 station in Goodland, Kansas.

22 Q I'm just talking about what is it specifically
23 the licensee of?

24 A It's the licensee of KSIV Clayton and it holds
25 a construction permit for Goodland, Kansas.

1 Q Okay. What major market, if any, is Clayton
2 nearby?

3 A It's near St. Louis.

4 Q And how about Goodland, Kansas?

5 A It's not near any major market. It's a rural
6 station. It's near Colby. It's near the Colorado
7 border.

8 Q What is your corporate position with regard to
9 Bott Broadcasting Company?

10 A My corporate position?

11 Q Yes.

12 A I'm an officer and a director. I'm a vice
13 president.

14 Q And there are how many directors of Bott
15 Broadcasting Company?

16 A Three.

17 Q You're one of three?

18 A Yes.

19 Q Bott Broadcasting Company is the licensee of
20 KCRV, KQCV, KFCV and KCCB. Is that correct?

21 A The first one is wrong and I didn't listen to
22 the others. It's KCCV. You said KCRV I think.

23 Q I said KCRV. KCCB is in?

24 A Independence, Missouri.

25 Q Okay. And that is near what major market?

1 A It's near Kansas City.

2 Q KQCV, do I have the call letters right for
3 that one?

4 A Yes.

5 Q That's in what city?

6 A That's Oklahoma City.

7 Q Is that considered the major market at which
8 it is most close to?

9 A Yes.

10 Q KFCV?

11 A WFCV.

12 Q I'm sorry. WFCV.

13 A That's Ft. Wayne.

14 Q Is that considered the market which it is
15 targeted to broadcast to more or less?

16 A Yes.

17 Q It's nearest to?

18 A Yes, that's the largest city nearby.

19 Q Okay. And KBCB. Do I have that right?

20 A Yes.

21 Q And that's what city?

22 A That's Overland Park, Kansas.

23 Q And what major market? Is that a construction
24 permit or is that a license?

25 A That's a construction permit.

1 Q What major market is that considered most near
2 to?

3 A That's nearby to Kansas City also. I might
4 mention that that construction permit is contingent upon
5 Bott Broadcasting Company divesting itself of the KCCB
6 in Independence because there is an overlapping of
7 signals there.

8 Q Your construction permit I believe was granted
9 but you can't begin operation until you divest.

10 A Until Bott Broadcasting Company divests itself
11 of the Independence facility..

12 Q And the construction permit though has been
13 issued on that one. Is that correct?

14 A Yes.

15 Q Victory Communications Inc. is the actual
16 licensee of the KCCV Collierville, Tennessee station.
17 Is that correct?

18 A It's WCRV.

19 Q That's the WCRV I was looking for before. And
20 that's in what city?

21 A Collierville, Tennessee.

22 Q And what major market is that considered?

23 A It's near Memphis.

24 Q Okay.

25 A About ten miles away or so.

1 Q And what is your corporate position with
2 Victory Communications Inc.?

3 A It's the same as Bott Broadcasting and Bott
4 Communications in that I'm an officer and director and
5 the vice president.

6 Q How many directors are there of that
7 corporation?

8 A There are three. See, Victory Communications
9 is a wholly owned subsidiary of Bott Broadcasting
10 Company. When Bott Broadcasting Company bought that
11 station in Collierville, they bought the stock of
12 Victory Communications and so the corporate structure of
13 Victory was identical to the corporate structure of Bott
14 Broadcasting Company.

15 Q AJB Broadcasting Inc. Are you an officer or a
16 director of that corporation?

17 A No, I'm not.

18 MR. ALPERT: Just one moment, Your Honor.

19 BY MR. ALPERT:

20 Q Bott Broadcasting Company was not originally
21 called that name when it was first organized. Is that
22 right?

23 A That's true.

24 Q It I believe started out as --

25 A You probably know more about this than I do.

1 This pre-dates me.

2 Q Does the name KIMO Inc., KIMO Inc., ring any
3 bells with you?

4 A Yes. That was the corporation I believe that
5 my father bought. I don't know if he bought assets or
6 he bought the corporation back in 1961 or '62. I
7 believe he changed the name to IGWT Inc. after that.

8 MR. ALPERT: Let's take this one step at a
9 time. I would like to have that identified as Radio
10 Representatives Inc. Exhibit Number 2. It's a document
11 entitled Corporate Records of KIMO Inc. It is a 24 page
12 document. Page two of the document reads Certificate
13 of Incorporation of KIMO Inc. I'd like to have that
14 identified please as Radio Representatives Inc. Exhibit
15 Number 2.

16 MR. FRIEDMAN: Your Honor, perhaps you want to
17 make it 3 since 2 has been withdrawn and there's no
18 confusion.

19 MR. ALPERT: That's fine.

20 JUDGE LUTON: It's identified as 3.

21 (Whereupon, the document was
22 identified as Radio Representatives
23 Inc. Exhibit Number 3 for
24 identification.)

25 MR. ALPERT: Just so we can have the whole

1 chronology here, I'd like to have identified as Radio
2 Representatives Inc. Exhibit Number 4 the document
3 titled Certificate of Incorporation.

4 (Whereupon, the document was
5 identified as Radio Representatives
6 Inc. Exhibit Number 4 for
7 identification.)

8 BY MR. ALPERT:

9 Q Mr. Bott, you mentioned that the name of the
10 corporation which was the original name for Bott
11 Broadcasting Company was changed from KIMO Inc. To the
12 best of your knowledge was the name changed to KANS
13 Inc.?

14 A Well, yes, that would make sense, too, since
15 the call letters of the station did change from KIMO to
16 KANS and apparently the owners of the corporation at
17 that time changed the corporate name to KANS Inc.

18 Q Okay.

19 A See the call letters of the station at the
20 time were KIMO and the corporation was named KIMO Inc.
21 and then apparently the owners changed it to KANS Inc.
22 when they changed the call letters.

23 Q You mentioned a few moments ago that the
24 corporation at one time was called IGWT Inc.?

25 A Yes.

1 MR. ALPERT: IGWT Inc. I'd like to have
2 identified for the record Radio Representatives Exhibit
3 Number 5 which is a two page document entitled
4 Certificate Of A Corporation.

5 (Whereupon, the document was
6 identified as Radio Representatives
7 Inc. Exhibit Number 5 for
8 identification.)

9 MR. FRIEDMAN: Your Honor, I've been tolerant
10 up to now. I don't like to object too much but perhaps
11 we need a proffer of where we're going about a
12 corporation that my client doesn't have an ownership
13 interest in.

14 MR. ALPERT: He's an officer of the
15 organization though.

16 MR. FRIEDMAN: He's an officer of Bott
17 Broadcasting.

18 JUDGE LUTON: So far we only have these
19 documents identified. The objection is just a mite
20 early.

21 MR. FRIEDMAN: Thank you.

22 MR. ALPERT: And finally RR Exhibit Number 6,
23 a one page document entitled Certificate Of Amendment, A
24 Certificate of Incorporation by IGWT Inc. It's a one
25 page document.

(Whereupon, the document was identified as Radio Representatives Inc. Exhibit Number 6 for identification.)

BY MR. ALPERT:

Q The name of the organization was then changed from IGWT Inc. to Bott Broadcasting Company. Is that correct?

A Yes.

MR. ALPERT: Now Your Honor, the only reason I was kind of following this down this line is because the

MR. FRIEDMAN: Is this proffer or testimony?

JUDGE LUTON: Excuse me. He was addressing me and I would ask all counsel to address me. Go ahead, Mr. Alpert.

MR. ALPERT: The reason I was saying that was just to make sure there's no confusion as far as the record as far as the names of the organization or anything of that nature. Now basically the guts of what we're getting to, namely RR Exhibit Number 7, I believe it is, the bylaws of the original name of the organization, KIMO Inc. It's an 18 page document called Bylaws of KIMO Inc., A Delaware Corporation.

(Whereupon, the document was

1 identified as Radio Representatives
2 Inc. Exhibit Number 7 for
3 identification.)

4 BY MR. ALPERT:

5 Q Mr. Bott, you mentioned that you are a 20
6 percent stockholder of Bott Broadcasting Company. Is
7 that correct?

8 A No, that's Bott Communications Company.

9 Q I'm sorry. But you are an officer of Bott
10 Broadcasting Company?

11 A Yes.

12 Q Okay.

13 MR. ALPERT: Your Honor, I would like to move
14 into evidence RR Exhibits 3, 4, 5, 6 and 7 for purposes
15 of showing the duties of the directors of the
16 organization to which Mr. Bott is a director of.

17 JUDGE LUTON: Prior to the time that he became
18 an officer or director?

19 MR. ALPERT: These remained the bylaws of the
20 organization, Your Honor.

21 JUDGE LUTON: They are the same?

22 MR. ALPERT: That is correct.

23 JUDGE LUTON: How do we know that?

24 MR. ALPERT: Maybe I should ask that question.
25 You're right.

1 BY MR. ALPERT:

2 Q Mr. Bott, to the best of your knowledge, have
3 the bylaws of the organization ever changed?

4 A The bylaws that you have here go back to 1958
5 and I didn't become an officer and director of the
6 company until much more recently. There could have been
7 amendments or changes to the bylaws.

8 JUDGE LUTON: The answer to the question is
9 you don't know?

10 THE WITNESS: I don't know, sir.

11 BY MR. ALPERT:

12 Q. Well, Mr. Bott, I filed a document request
13 which requested all corporate documents concerning the
14 organizations which you are a member of and these are
15 the documents which you through your counsel proffered.
16 Are there other exhibits which might exist out there
17 which have not been produced?

18 A I don't know. I assume that --

19 JUDGE LUTON: Don't assume please.

20 THE WITNESS: I do not know. I would have to
21 double check.

22 MR. ALPERT: Okay. Well, Your Honor, of
23 course I have to assume that the production that Mr.
24 Bott's previous counsel served upon me is complete and
25 accurate. In the absence of any statement by him of any

1 omissions of any documents and for that reason I would
2 still move into evidence the bylaws of the organization
3 as the only thing that has apparently been changed is
4 the name of the organization. These are the most recent
5 bylaws of the organization so far as has been
6 represented to me.

7 MR. FRIEDMAN: Your Honor, having come in the
8 case beyond that point, I have not noted that at any
9 point those documents were tendered. I guess I'm
10 attempting to find that now. To find out on what basis
11 that tender was made.

12 MR. ALPERT: The circumstances were, Your
13 Honor, basically the original documents were produced.
14 Subsequently, I pointed out to Mr. Martin, Mr. Bott's
15 previous counsel, that certain documents had not been
16 produced. He said he would supply them and shortly
17 thereafter he did.

18 JUDGE LUTON: Is there any dispute about the
19 state of the bylaws, whether they have changed or have
20 remained the same? Is there any kind of dispute about
21 that? I still don't think you've overcome your
22 evidentiary problem. That's why I'm asking this
23 question now.

24 MR. FRIEDMAN: Your Honor, I feel
25 uncomfortable in the sense that my client has testified

1 that he's not certain what changes occurred and there
2 may be changes to it. I would therefore object to that.

3 JUDGE LUTON: I'll have to sustain the
4 objection.

5 MR. ALPERT: Your Honor, might I suggest that
6 possibly a better solution would be in the event that I
7 would be more than willing to accept any sort of
8 supplement to the record whereby they would, if they
9 feel that there are further bylaws that have come into
10 existence, they can introduce them themselves following
11 the time they discover those documents. But until such
12 time, the organization, through its many changes, is not
13 called Bott Broadcasting Company. The name at one time
14 was KIMO Inc. These are the bylaws of KIMO Inc. For
15 that reason, I feel that this document is relevant.

16 JUDGE LUTON: You're talking about this
17 document. You've got several up here. Are you talking
18 about all of them now or just the most recent one?
19 KIMO?

20 MR. ALPERT: Yes. Your Honor, the main reason
21 I introduced RR Exhibits 3 through 6 was just so the
22 record can reflect the name changes so it can be clear
23 that KIMO Inc., the name of the organization that's
24 shown on these bylaws, is the same organization as
25 currently Mr. Bott is an officer and director of.

1 JUDGE LUTON: Well, are the documents
2 extraneous? Didn't the witness give testimony to that
3 effect about the name had been changed from KIMO Inc. to
4 whatever it is today?

5 MR. ALPERT: I believe that once his memory
6 was refreshed he did testify to each of the different
7 changes. You're right, Your Honor.

8 JUDGE LUTON: Then we don't need all these
9 documents.

10 MR. ALPERT: I would be perfectly happy if
11 just RR Exhibit Number 7 came in, Your Honor.

12 MR. FRIEDMAN: Your Honor, that's the one that
13 I have the trouble with. As Mr. Bott testified, there
14 may well have been changes before the company that Mr.
15 Bott has employment --

16 JUDGE LUTON: But Mr. Bott isn't aware of any
17 of those changes. He doesn't know.

18 MR. FRIEDMAN: He does not know. And there
19 may well have been changes along the way before even the
20 present ownership of Bott Broadcasting came into place.

21 JUDGE LUTON: That's fine, but I'd be
22 justified in taking the position that so far as appears
23 from the evidentiary record these bylaws are indeed the
24 bylaws that existed when the outfit was named KIMO and
25 that exists today, if the witness is able to say that.

1 MR. FRIEDMAN: I think he said he wasn't able
2 to say that.

3 JUDGE LUTON: Today? He doesn't know the
4 state of the bylaws today?

5 MR. FRIEDMAN: I think maybe we should ask
6 him.

7 JUDGE LUTON: Did you ask him that?

8 MR. ALPERT: I'm not sure if I asked him that
9 specific question.

10 JUDGE LUTON: Why don't you?

11 MR. ALPERT: Okay. .

12 BY MR. ALPERT:

13 Q Are you familiar at all with the bylaws of
14 Bott Broadcasting Inc. that govern Bott Broadcasting
15 Company today?

16 A Yes, I'm generally familiar with the bylaws.

17 JUDGE LUTON: Bott Broadcasting or Bott
18 Communications? Which is it?

19 THE WITNESS: Bott Broadcasting Company. I'm
20 generally familiar with the bylaws of Bott Broadcasting
21 Company but I am not sure and I can't say for certain
22 that the bylaws for 1958 have not been amended in the
23 last 30 years.

24 JUDGE LUTON: No, but you can say whether in
25 your view, since you're generally familiar with those

1 bylaws, whether they appear to be the same, so far as
2 you're able to say, as what's shown here in 3 for
3 identification. Take a look at them. So far as you're
4 able to say. I realize this is not conclusive of the
5 point, but it is something.

6 THE WITNESS: Yes, sir.

7 BY MR. ALPERT:

8 Q Well, maybe one clarifying question. Did you
9 supply the documents to your counsel that were produced
10 to me?

11 A Yes.

12 JUDGE LUTON: Excuse, Mr. Alpert. You're not
13 going to overcome an evidentiary problem by talking
14 about what you received by way of discovery. I'm not
15 going to accept that so just let that go.

16 THE WITNESS: These appear to be the corporate
17 records or the bylaws of the current corporation;
18 however, I don't know that there may have been some
19 minor amendment, some amendments. That's the best I can
20 answer.

21 BY MR. ALPERT:

22 Q What matters did those minor amendments which
23 might exist cover?

24 JUDGE LUTON: You're still talking
25 speculation. He said there might have been something.

1 He doesn't know. Now to chase that might will lead us
2 nowhere.

3 MR. ALPERT: Okay, Your Honor, I believe his
4 testimony is that these appear to be the bylaws that
5 currently are in effect for Bott Broadcasting Company.

6 JUDGE LUTON: So far as he's able to say.

7 MR. ALPERT: That's right, and I believe
8 that's sufficient for the evidentiary bearing that I
9 need to meet.

10 JUDGE LUTON: All right. I agree. 3 is the
11 one we're talking about?

12 MR. ALPERT: We're talking about #7.

13 JUDGE LUTON: We're talking about 7.

14 MR. ALPERT: Bylaws of KIMO Inc. The other
15 documents, Your Honor, as I mentioned, were merely just
16 to show the name changes so there is no confusion in the
17 record whatsoever.

18 JUDGE LUTON: The others aren't in the record.

19 MR. ALPERT: I understand that and I don't
20 think they need to be based upon the testimony.

21 JUDGE LUTON: 7 I will receive. The others
22 will remain for identification only.

23 (Whereupon, the document marked as
24 Radio Representatives Exhibit
25 Number 7 was received in evidence.)

1 BY MR. ALPERT:

2 Q Mr. Bott, you testified earlier that you were
3 also a director of Bott Communications Inc. Is that
4 correct?

5 A Yes.

6 Q You are also a stockholder of Bott
7 Communications Inc. Is that correct?

8 A Yes, that's correct.

9 Q And you are a 20 percent stockholder and an
10 officer of Bott Communications Inc. Is that correct?

11 A That's correct.

12 MR. ALPERT: I am now asking to be identified
13 a 15 page document entitled Bylaws Of Bott
14 Communications Inc. It looks like I inadvertently don't
15 have enough copies but I can borrow one copy and I'll
16 make additional copies available later on. I would like
17 to have that identified as RR Exhibit Number 8.

18 (Whereupon, the document was
19 identified as Radio Representatives
20 Inc. Exhibit Number 8 for
21 identification.)

22 BY MR. ALPERT:

23 Q Mr. Bott, are you familiar with the bylaws of
24 Bott Communications Inc.?

25 A Again I'm generally familiar with them.

1 Q Does that document appear to be the bylaws of
2 Bott Communications Inc.?

3 A It would appear to be.

4 MR. ALPERT: Your Honor, I'd like to have
5 Exhibit Number 8 accepted into evidence concerning the
6 duties and obligations of directors and officers of Bott
7 Communications Inc. of which Mr. Bott is an officer and
8 director.

9 JUDGE LUTON: Any objection?

10 MR. FRIEDMAN: Your Honor, just a procedural
11 one in the sense I'm looking at all of the papers.
12 There seem to be documents at the end that don't relate
13 to Bott Communications Inc. I believe that's KANS,
14 Inc., KIMO, Inc. Could you check what we're admitting?
15 There's a lot here that may not belong.

16 MR. ALPERT: Perhaps those three pages were
17 inadvertently collated but I would have no problem with
18 taking those documents out. I totally agree, Your
19 Honor. The document only needs to come in as pages 1
20 through 11 and the subsequent pages 12, 13, 14 and 15
21 which were previously part of the identified document
22 can be totally removed.

23 JUDGE LUTON: Any other objection?

24 MR. FRIEDMAN: No, Your Honor.

25 JUDGE LUTON: 8 is received.

(Whereupon, the document marked
as Radio Representatives Exhibit
Number 8 was received in
evidence.)

BY MR. ALPERT:

Q There are two other directors of the two
organizations of which you are a director, namely
Shirley Bott and Richard Bott, your father. Is that
correct?

A Yes, I believe so.

Q What are their ownership interests?

A Together jointly they own Bott Broadcasting
Company.

Q A hundred percent of it?

A Yes.

Q How about for Bott Communications Inc.?

A Well, Bott Broadcasting Company owns the
remaining 80 percent of Bott Communications Inc.

Q So they own I guess 80 percent then of Bott
Communications Inc. and they own the totality of Bott
Communications. Is that correct?

A I didn't understand the question.

Q They own 80 percent of Bott Communications
Inc. and they own 80 percent collectively of Bott
Broadcasting. Is that correct?

1 A No. They own 100 percent of Bott Broadcasting
2 Company. Bott Broadcasting Company owns 80 percent of
3 Bott Communications.

4 Q So they own 80 percent then of that
5 organization in essence to that other organization?

6 A Right.

7 Q And they are both officers and directors of
8 these organizations?

9 A I believe so, yes.

10 Q When you referred earlier to the fact that
11 there are three directors, they are the other two?

12 A Yes.

13 Q All down the line as far as each of the other
14 interests that are owned -- first of all, you've done
15 sales work for Bott Broadcasting Inc. and Bott
16 Communications in the past. Is that correct?

17 A What do you mean "sales work"?

18 Q I believe you got some national representation
19 of the stations in order to obtain sales contracts for
20 sponsorship on those stations?

21 A That's part of my job now. Yes.

22 Q Okay. So are you familiar with the coverage
23 areas of the various stations for purposes of
24 representing the attributes of the stations to potential
25 advertisers?

1 A Generally. I'm not an engineer but I'm
2 familiar with what areas that the stations serve and
3 cover.

4 Q Okay. Understanding that you don't have the
5 precise numbers in front of you but to the best of your
6 knowledge and experience, approximately how many persons
7 does KCBC serve?

8 MR. FRIEDMAN: Objection, relevance.

9 MR. ALPERT: This is directly relevant to the
10 diversification criteria.

11 JUDGE LUTON: Overruled.

12 THE WITNESS: Which station?

13 BY MR. ALPERT:

14 Q KBCB in Overland Park, Kansas.

15 A I couldn't tell you on that. That's the
16 construction permit that's not on the air yet.

17 JUDGE LUTON: If you don't know, say so.

18 THE WITNESS: I don't know. I could hazard a
19 guess but it would be a guess.

20 JUDGE LUTON: Please don't guess.

21 BY MR. ALPERT:

22 Q AFCV Fort Wayne, Indiana, the approximate
23 population served.

24 A I don't know. Are you talking about the .5
25 millivolts or exactly what service contour?